AJN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4184 OF 2004

Pahar Singh Room Singh Parmar ... Applicant

Vs.

The Union of India & Ors. ... Respondents

Mr. Maqsood Khan for the applicant.

Mr. R.N. Agarwal for respondent 1.

Ms. A.R. Pai, A.P.P. for the State.

CORAM: SMT. RANJANA DESAI &
A.S. OKA, JJ.

DATED: 1ST OCTOBER, 2004.

P.C. :-

1. Criminal Writ Petition No.464 of 2004 was disposed of by us by a detailed judgment on 30/9/2004. The order of detention issued against the detenu Dhuke Singh Dharam Singh Chavan was confirmed. This application was filed on 29/9/2004 praying that the detenu Dhuke Singh Dharam Singh Chavan be released on parole because, he has lost his father and he wants to go to his native place Padadi - Karola, Tq. Sanchor Distt. Jalore, Rajasthan, to perform the post death religious rites of his father. We had, therefore, directed Ms. Pai, the learned A.P.P. to obtain instructions in the matter.

2. Today, PSI Mr. Ankush Chinde of LA-II Wing of the Mumbai Police is present in the court. It is true that

for parole, the detenu would ordinarily have to apply under section 12 of the COFEPOSA Act. But in this case, the last rites are to be performed on this Saturday i.e. on 2/10/2004 and if the parole application has to be decided, it will have to be decided by the Central Government as the detention order was issued by the Central Government and in the nature of things, the application may not be disposed of by this Saturday. Considering the fact that the detenu has lost his father, we thought that, if possible, arrangement should be made to take the detenu to his native place. Ms. Pai, the learned A.P.P on instructions, states that the Mumbai Police, as per the rules, can only take the detenu to the Jalore District Sub-Jail in police escort. However, from Jalore District Sub-Jail, the detenu can be escorted to his native place only under the escort provided by the Rajasthan Police and if the Rajasthan Police do not provide escort, the detenu will have to be brought back to Mumbai.

3. In the peculiar circumstances of the case, we pass the following order:

O R D E R

"The detenu Dhuke Singh Dharam Singh Chavan, presently lodged at the Mumbai Central Prison at Mumbai is directed to be taken by LA Wing of the Mumbai Police to

Jalore District Sub-Jail in proper police escort. The expenses for the police escort will have to be borne by the detenu at the rate of Rs.5000/- per day. Hence, we direct that an amount of Rs.25,000/- be deposited by the detenu, on account, with the Superintendent of Police, Arthur Road Jail today, who shall make it available to the LA Wing of the Mumbai Police. This amount should, ofcourse, be subject to the final adjustments.

We make it clear that the LA Wing of the Mumbai Police shall take the detenu Dhuke Singh Dharam Singh Chavan to Jalore District Sub-Jail and bring him back to the Mumbai Central Prison also in proper police escort. We also make it clear that from the Jalore District Sub-Jail, he has to be taken by Rajasthan Police to his native place. It will be the responsibility of Rajasthan Police to take the detenu to his native place safely under the police escort and bring him back to Jalore District Sub-Jail. For that also, the detenu should bear the expenses. However, if the Rajasthan Police do not provide escort to the detenu, then the LA Wing of the Mumbai Police shall immediately bring him back to

Mumbai and lodge him in the Mumbai Central Prison. Since the religious rites are to be performed on Saturday and Sunday i.e. on 2/10/2004 and 3/10/2004, the detenu should be kept there on those days i.e. on 2/10/2004 and 3/10/2004 and he will be immediately brought back to Mumbai and lodged in the Mumbai Central Prison.

We note that the detenu's relative Mr. Roop Singh Parmar is present in court. He says that as soon as the religious rites are over, the detenu Dhuke Singh Dharam Singh Chavan shall be brought back to Mumbai.

4. Application is disposed of in the aforestated terms.

5. All concerned parties and Rajasthan Police to act on the ordinary copy of this order duly authenticated by the Personal Assistant/Sheristedar of this court.

(SMT. RANJANA DESAI, J.)

(A. S. OKA, J.)